IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISIDICTION

CONTEMPT PETITION NO.398 OF 2004

Dashrath Rama Shinde ..Petitioner

Vs.

Maruti Rama Shinde and & Ors. ..Respondents

....

Mr.Ravindra Mane with Mr.Uday Warunjikar for Petitioner
Mrs.Geeta Mulekar A.G.P. for State

....

CORAM : B.H.MARLAPALLE,J.

DATE : FEBRUARY 10,2005

P.C.:

1. Heard Mr.Pravin Mane with Mr.Uday Warunjikar, the learned counsel for the petitioner.

2. R.C.S.No. 171 of 2002 filed by the petitioner came to be decreed for perpetual injunction on 6.2.2003 by the learned IVth Jt.C.J.J.D.Barshi and in spite of the said decree, it is claimed that the petitioner' possession was disturbed and infact, he came to be dispossessed. For restoration of his possession, he had already filed R.C.S.No. 62 of 2004 and the same is presently pending. In this Contempt Petition, the petitioner claims that the decree passed in R.C.S.No. 171 of 2002 has been violated. Once the decree was passed by the competent Court, the same was required to be executed

by filing an execution proceeding. It is well settled that the contempt jurisdiction of this Court, cannot be invoked for execution of the decree and reference in this regard, may be made to the decision in the case of *Babu Ram Gupta Vs. Sudhir Bhasin and another reported in A.I.R. 1979 S.C. 1528.*

3. Hence, prima facie there is no case of contempt and the petitioner has an alternative remedy.

4. Contempt Petition is rejected.

[B.H.MARLAPALLE,J.]